

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARK VERNON,)	
)	
Plaintiff,)	
vs.)	NO. CIV-14-0164-HE
)	
BRIAN SLABOTSKY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff Mark Vernon, proceeding *pro se*, filed this § 1983 action alleging violations of his constitutional rights. The matter was referred for initial proceedings to Magistrate Judge Gary M. Purcell, consistent with 28 U.S.C. § 636(b)(1)(B). He has recommended that the action be dismissed without prejudice due to plaintiff's failure to prosecute and serve the defendants with process after being granted an extension of time to do so.


Plaintiff was directed to serve defendants in accordance with the Federal Rules of Civil Procedure on May 7, 2014, and was informed that service had to be completed within 120 days. He was advised both on May 7 and on August 14, 2015, that service was his responsibility and that failure to timely file proof of service could result in dismissal of the action. The magistrate judge directed plaintiff on November 24, 2014, to show cause for his failure to effect service. Plaintiff responded to the magistrate judge's order and was granted a 30 day extension of time to complete service of process upon the defendants. When the 30 day period expired and plaintiff had not filed returns reflecting service or demonstrated good cause for another extension of time, the magistrate judge concluded the action should be

dismissed without prejudice. Although he noted that some of plaintiff's claims might be time-barred, the magistrate judge decided dismissal was appropriate as plaintiff had failed to show that he had made any attempt to complete service of process upon any defendant in the thirteen months that the action had been pending.

Plaintiff failed to object to the Supplemental Report and Recommendation and thereby waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. §636(b)(1)(C). Accordingly, the court adopts the Supplemental Report and Recommendation and dismisses the action without prejudice.

IT IS SO ORDERED.

Dated this 4th day of March, 2015.



JOE HEATON
UNITED STATES DISTRICT JUDGE